

03-2-315

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Seymour, et al.

Application/Control No.: 10/737,048

Art Unit: 3632

Filed: 12/16/2003

Examiner: Sterling, Amy Jo

For: BRACKET ASSEMBLY

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Alexandria, VA 22313-1450

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04/06/2009
William H. McNeill
William H. McNeill

APPEAL BRIEF UNDER 37 CFR 41.37

Applicants hereby present to the Board Of Appeals their Brief in support of their Appeal from the decision of the Primary Examiner finally rejecting Claims 1-3 in the above-identified application. Please charge the \$540.00 fee to Deposit Account No. 15-0685. A Notice of Appeal is filed concurrently herewith.

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APPEAL BRIEF

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REAL PARTY IN INTEREST

The real party in interest is OSRAM SYLVANIA Inc., a wholly owned subsidiary of Siemens Corp.

RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences pending which are related to the instant appeal.

JURISDICTION

Jurisdiction is found in United States Code Title 35 §134. The Final Rejection in this application was mailed 02/03/2009 and set a three month period for response. The Notice of Appeal in this application was mailed 04/06/2009 and this Brief is mailed concurrently.

STATUS OF CLAIMS

Claims 1-3 have been rejected.

Claims 1-3 are appealed. These claims are delineated in the Appendix attached hereto.

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STATUS OF AMENDMENTS

All amendments have been entered.

HISTORY

This application was filed in 2003 and this current Brief is the 3rd Appeal Brief filed in this application. The first Brief resulted in a withdrawal of the Final Rejection and the institution of new art and a new rejection. The second Brief went to the Board for decision and the Examiner was reversed. Upon return to the Examiner a new ground of rejection was issued and led ultimately to a new Final Rejection and this Appeal.

SUMMARY OF CLAIMED SUBJECT MATTER

An assemblage (8) (page 4, line 1, Figs. 1 and 3) comprising:

an electrical connector (10) having a metal body (12) with a tubular projection (14) having a push-through portion (16) having a first diameter and an engaging portion (18) having a second diameter larger than said first diameter (page 4, lines 2-4, Fig. 3);

and a metal support (20) having a major part (22) that is substantially rigid and includes an aperture (24) formed by a plurality of deflectable

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spokes (26), said aperture (24) having a center opening (28) with a third diameter greater than said first diameter and less than said second diameter, whereby said tubular projection push-through portion (14, 16) slides through said aperture (24) and said spokes (26) engage said second diameter of said engaging portion (18) and mount said electrical connector with said support. (page 4, lines 4-10, Figs, 1 and 3).

Claim 2 requires the assemblage (8) to have a stop (30) (page 4, lines 12-14, Fig. 3) associated with said second diameter to limit the amount of movement possible for said support (20).

Claim 3 requires the spokes (26) of the support (20) to diverge away from the plane of the major part of the support (page 4. lines 16, 17, Fig. 2).

GROUND'S OF REJECTION TO BE REVIEWED ON APPEAL

Whether Claims 1-3 are anticipated under 35 U.S.C. §102(b) by Bolante, et al., U.S. Patent No. 4,490,576 (hereafter, Bolante).

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ARGUMENTS

35 USC §102

"Factual determination of anticipation requires disclosure in single reference of every element of claimed invention, and examiner must identify wherein each and every facet of claimed invention is disclosed in applied reference." **Ex parte Levy**; 17 USPQ2d; PTO Bd of Pat. App. and Int.; October 16, 1990

The instant invention requires two basic parts: an electrical connector of particular configuration and a support for the connector. The support 20 includes an aperture 24 of a given size; the aperture being defined by the terminal ends of a plurality of spokes 26.

The connector requires a tubular projection 14 having a first end 16 that has a diameter smaller than the aperture 24. The purpose of this feature is to eliminate skiving, a condition wherein small slivers of connector material are undesirably removed during insertion of the connector into the support (see specification, page 2, lines 10-12).

As noted by the Board in Appeal No. 2008-1562:

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“Claim 1 requires that the ‘aperture [is] formed by a plurality of deflectable spokes, said spokes having a center opening with a third diameter greater than said first diameter and less than said second diameter...”

In the last Final Rejection (dated 02/03/2009) the Examiner has stated that Bolante teaches “an assemblage having an electrical connector (30) having a metal body...with a tubular projection having a push-through portion having a first diameter (smaller part of 32...) and an engaging portion having a second diameter (larger part of 32...) larger than the first diameter.”

Appellants disagree with this assertion since it is apparent from a reading of Bolante that the spokes of the retainer element 14 grasp the “first diameter” of the cable 30, not the second diameter as required by the instant claims.

The rejection (at the top of page 3) goes on farther to state:

“Bolante et al. also teaches a metal support (14) having a major part (60...) that is substantially rigid and includes an aperture formed by a plurality of

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deflectable spokes (62) which diverge away from the plane of the major part of the support, the aperture having a center opening with a third diameter greater than the first diameter and less than the second diameter....”

The metal support 14 of Bolante is commonly known as a Tinnerman and has exactly the problem that the instant invention is designed to obviate, that is, skiving of the inserted material. As a matter of fact, Bolante, at col. 4, lines 1-5, specifically states that this form of skiving is exactly what occurs during insertion. “The distal ends of the fingers 62 terminate on the circumference of an imaginary circle which is *smaller* (emphasis added) than the *smallest possible diameter of the metallic portions 32* (emphasis added) of a given nominal size of cable 30.”

Claim 1 also requires that the apertured support have a “major part” that is “substantially rigid.” The Final Rejection equates this feature with the retainer element 14 of Bolante and, in the “Response to Arguments” section of the rejection, states that “It is unclear as why the applicant is arguing that the outer rim does not reach this limitation.” It is respectfully submitted that the Bolante

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patent itself characterizes the element 14 as “preferably formed either from spring temper sheet metal...and it has a thin outer rim or annulus 60...” (Bolante, col. 3, lines 59-61). This is hardly seen as a ringing endorsement for a “major part” that is “substantially rigid.”

Further, the instant claims require the apertured member 20 be the “support” for the electrical connector 10. This, also, is not the case in Bolante where the retainer element 14 functions more as a centering element and the support for Bolante’s cable 30 comes from the grommet 18, washer 20 and the hollow body 12, all held together by the nut 16.

Accordingly, it is respectfully submitted that error was made in the rejections of Claims 1-3 under 35 U.S.C. §102(b) and the Examiner has failed to provide a *prima facie* case of anticipation and reversal of the rejection and allowance of the claims is earnestly solicited.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. H. McNeill', written in a cursive style.

William H. McNeill

Reg. No 24426

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CLAIMS APPENDIX

1. An assemblage comprising:

an electrical connector having a metal body with a tubular projection having a push-through portion having a first diameter and an engaging portion having a second diameter larger than said first diameter;

and a metal support having a major part that is substantially rigid and includes an aperture formed by a plurality of deflectable spokes, said aperture having a center opening with a third diameter greater than said first diameter and less than said second diameter, whereby said tubular projection push-through portion slides through said aperture and said spokes engage said second diameter of said engaging portion and mount said electrical connector with said support.

2. The assemblage of Claim 1 wherein a stop associated with said second diameter limits the amount of movement possible for said support.

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3. The assemblage of Claim 2 wherein said spokes of said support diverge away from the plane of said major part of said support.

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EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.